



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/613,113	07/10/2000	Dirk Husemann	CH9-1999-0017-US1(728-167	8808
66668	7590	02/05/2009	EXAMINER	
THE FARRELL LAW FIRM - IBM			HUYNH, BA	
333 EARLE OVINGTON BOULEVARD				
SUITE 701			ART UNIT	PAPER NUMBER
UNIONDALE, NY 11553			2179	
			MAIL DATE	DELIVERY MODE
			02/05/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DIRK HUSEMANN and MICHAEL MOSER

Appeal 2008-2728
Application 09/613,113
Technology Center 2100

Decided:¹ February 5, 2009

Before JOHN C. MARTIN, LANCE LEONARD BARRY, and
JEAN R. HOMERE, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 CFR § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF THE CASE

The Patent Examiner rejected claims 1-26. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

INVENTION

The invention at issue on appeal uses a remote computing device having a powerful user interface to control a computing device having a limited user-interface. More specifically, the computing device with the limited user-interface sends user-interface data to the remote computing device to provide a user-interface at the latter device for receiving input from a user. The input controls the computing device with a limited user-interface to execute commands therein. (Spec. 50.)

ILLUSTRATIVE CLAIM

1. A method for controlling at least one first device having a limited user-interface by using at least one second device, wherein the first and second devices communicate via a wireless communication channel and support a common communications protocol, the method comprising the steps of:

transmitting the limited user-interface information from the at least one first device to the at least one second device;

providing an extended user-interface on the at least one second device, the extended user interface having more extensive capabilities than the capabilities of the limited user-interface of the at least one first device, the extended user-interface utilizing the transmitted limited user-interface information and comprising extended functions so as to extend the capabilities of the limited user-interface;

accepting user commands input via the extended user-interface;

transmitting user commands from the second to the first device; and

executing the transmitted user commands on the first device.

PRIOR ART

Humbleman U.S. Patent No. 6,466,971 B1 Oct. 15, 2002

REJECTIONS

Claims 1, 2, 4-6, 9-11, and 15-22 stand rejected under 35 U.S.C. §102(e) as anticipated by Humbleman.

Claims 3, 7, 8, 12-14, and 23-26 stand rejected under 35 U.S.C. §103(a) as obvious over Humbleman.

ISSUE

The Examiner finds that Humbleman's "first device 14 provides service for the user but not control user interface, thus has limited user interface (5:28-30)." (Ans. 8.) The Examiner further finds that "[c]learly, devices such as VCRs, microwaves, dishwashers, and ovens are device[s] with [a] limited user interface as defined by the appellants. For example, the VCR may have Stop/Play buttons but does not have a tuner therein (Humbleman's 1:45-52, 2:11-16)." (Ans. 9.) The Appellants argue that "[s]ince only a client device of Humbleman et al. has a user interface, Humbleman et al. can not [sic] anticipate a limited user interface of a first

device and an extended user interface of a second device." (Reply Br. 4.) Therefore, the issue before us is whether the Appellants have shown error in the Examiner's finding that Humpleman's server device includes a limited user interface.

LAW

"[A]nticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim . . ." *In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) (citing *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984)). "[A]bsence from the reference of any claimed element negates anticipation." *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986).

FINDINGS OF FACT

The following findings of fact ("FFs") are supported by a preponderance of the evidence.

1. "Referring to FIG. 1 [of Humpleman], . . . a network 10 includes at least one client device 12 and at least one server device 14 interconnected via a communication link 16." (Humpleman, col. 5, ll. 5-8) (bolding omitted.)
2. "Each client device 12 can include a user communication interface including input devices such as a mouse and keyboard for receiving user

input, and a display for providing a control user interface for a user to interact with the networked devices." (*Id.* ll. 23-28) (bolding omitted.)

3. "Referring to FIG. 2, as defined herein, each server device 14 provides a service for the user, except control user interface, and each client device 12 provides control user interface for user interaction with the network 10. As such, only client devices 12 interact directly with users, and server devices 14 interact only with client devices 12 and other server devices 14." (*Id.* ll. 28-34) (bolding omitted.)

ANALYSIS

As mentioned above, the Examiner reads the claimed "first device" on Humpleman's server device 14. In response to the Examiner's finding that devices such as VCRs, microwaves, dishwashers, and ovens may include a limited user interface, such as Stop/Play buttons in the case of a VCR (Ans. 9), the Appellants (Reply Br. 3-4) cite Humpleman's statements that the server device provides no user interface (FF 3.)² and that only the client device 12 interacts directly with users (*id.*) and includes a user interface to do so (FF 2). Based on these statements in Humpleman, the Appellants argue that "[a]ccordingly, the Examiner's argument that a VCR may have Stop/Play buttons is inconsistent with Humpleman's teaching" (Reply Br. 4). We understand the Appellants to be arguing that a person skilled in the art would have understood from the above-cited statements that Humpleman's

² The Examiner admits as much by finding that "[t]he first device 14 provides service for the user but not control user interface . . ." (Ans. 8.)

server device 14 when implemented as a VCR will not have Stop/Play buttons and thus is not a conventional VCR. The Examiner contends that Appellants are citing those statement out of context. *See* Ans. 9 ("The appellants' argument appears conclusive and out of context. The portion cited by the appellants directs to Humpleman's teaching of figure 1 wherein a client device 12 (i.e., a user device, emphasis added) communicates with a server device 14 over network 10."). (Ans. 9). The Examiner, however, has not adequately explained why a person skilled in the art would not have understood the statements in question to be applicable to all server devices 14, including VCRs, microwaves, dishwashers, and ovens. If Humpleman includes any subject matter than is inconsistent with the statements in question and thus supports the Examiner's position, that subject matter should be specifically identified.

We therefore agree with the Appellants that the Examiner has not shown that any of Humpleman's server devices 14 have a limited user interface. The absence of such a showing negates anticipation of claims 1, 2, 4-6, 9-11, and 15-22. This deficiency is not cured by the Examiner's reasoning concerning the obviousness of claims 3, 7, 8, 12-14, and 23-26.

CONCLUSION

Based on the aforementioned facts and analysis, we conclude that Appellants have shown error in the Examiner's finding that Humpleman's server device includes a limited user interface.

Appeal 2008-2728
Application 09/613,113

ORDER

We reverse the rejections of claims 1-26.

REVERSED

msc

THE FARRELL LAW FIRM – IBM
333 EARLE OVINGTON BOULEVARD
SUITE 701
UNIONDALE NY 11553